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DEC 27 2006

60,246-265; 10,802

UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Concha  
Serial No.: 10/776,374  
Filed: 2/20/2004  
Art Unit: 3744  
Examiner: Tanner, Harry B.  
Title: DEFROST MODE FOR HVAC HEAT PUMP SYSTEMS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION

Dear Sir:

Reconsideration of the final rejection mailed 26 October 2006 is requested.

The claims stand rejected over the combination of the Japanese-language WO/03064935 ("the Japanese-language reference") combined with Hoglund, et al.

This combination is improper, and is contested.

The Japanese-language reference appears to disclose a water heater which utilizes a heat pump circuit. A defrost mode is provided. A water heater function performed by a heat pump is a much different system than a heat pump for heating a building. As an example, a heat pump for heating a building typically would be reversible and also operable to cool air, dependent on outside temperature. Thus, a heat pump for heating a building would typically be able to both cool and heat, and would be a much more complicated system. See, for example, the flow chart in Figure 23 of Hoglund, et al. Hoglund, et al. is a heat pump for heating and cooling buildings (see col. 3, lines 60-65, for example).

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There is nothing within the Japanese-language reference that would suggest it is not achieving complete success with its defrost system, or that it is not adequately heating the water.

Hoglund, et al. discloses an extremely complex algorithm for attempting to maximize the time its heat pump is operational, by minimizing the timing of the defrost mode. There would be no reason to include such a complex system into the Japanese-language system, in that there is no showing that any efficiency improvements would justify the expense of developing and incorporating the extremely complex control of Hoglund, et al. into the Japanese-language reference.

As set forth, as for example, in applicant's Summary of the Invention section, applicant's reasons for utilizing its specific controls are to provide benefits which are nowhere disclosed in the prior art. Thus, each of these benefits would be "unexpected results" and would show that the proposed combination should not in fact render the claims "obvious." Instead, the fact that applicant's invention provides all of these non-disclosed benefits shows that the claimed structure would not have been obvious.

Moreover, the examiner argues that much that is not disclosed in any reference would simply be "an obvious variant." The examiner is not allowed to simply speculate as to what the prior art might have been able to develop. Instead, if the examiner persists in maintaining the rejections with regard to the repetition of stopping and starting, or the specifically claimed algorithm parameters, the examiner must identify and cite prior art. Absent such support, the examiner should withdraw the rejections to these various features. Simply, those rejections are not supported.

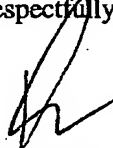
Finally, should the examiner persist in maintaining any of the rejections over the Japanese-language reference, a complete translation of the reference is requested. As is a requirement of the MPEP, applicant is entitled to have a translation such that the propriety of the rejection can be compared to the actual reference.

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In sum, the rejection of the claims is improper. Withdrawal of all rejections is requested. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

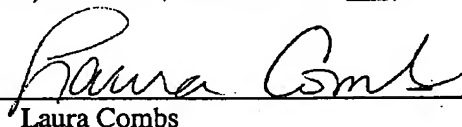


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Dated: December 26, 2006

## CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on December 26, 2006.

  
Laura Combs